

FILED

SEP 14 2012


CLERK

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

EUGENE H. MATHISON,

CIV. 12-4156

Petitioner,

- VS -

ORDER RE: MOTION TO STAY

DAVID BERKEBILE, Warden,

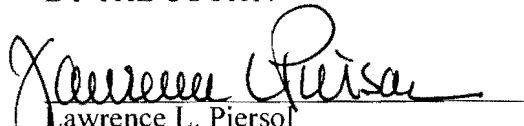
Respondent.

After Eugene H. Mathison, by his counsel of record, filed a Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 and a Motion for Bail pending the disposition of the habeas petition, Respondent challenged jurisdiction in his response to the motion for bail and in a motion to dismiss for lack of jurisdiction. Respondent has now moved to stay its response to the petition for habeas corpus. Doc. 11. As the Court has previously stated, Mathison raises serious concerns as to whether his conviction and sentence for both money laundering and fraud is valid under the holding of *United States v. Santos*, 553 U.S. 507 (2008). Counsel for Mathison has not yet responded to the motion to dismiss and Respondent's jurisdictional defense. Even if the Court were to find in favor of the Respondent on the issue of the correct district to bring this action, the Court may still consider, if it be in the interest of justice, to transfer the action pursuant to 28 U.S.C. § 1406(a) or to continue the appointment of counsel to pursue an appropriate remedy. The input from the Government on the merits of the *Santos* claim would assist the Court in making such a determination. Accordingly,

IT IS ORDERED the Respondent's motion to stay the response to the Petition for Writ of Habeas Corpus (Doc. 11) is denied.

Dated this 14th day of September, 2012.

BY THE COURT:


Lawrence L. Piersol
United States District Judge

ATTEST:
JOSEPH HAAS, CLERK

BY:

(SEAL)

DEPUTY